

Pages 1 - 4

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE CHARLES R. BREYER

IN RE BROCADE COMMUNICATIONS,)
SYSTEMS, INC. DERIVATIVE) Case No. C 05-2233
LITIGATION)
_____) San Francisco, California
December 4, 2009

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

For Plaintiff DEWEY & LEBOEUF LLP
Brocade: 1950 University Avenue, Suite 500
East Palo Alto, California 94303-2225
BY: PETER ROOT, ESQUIRE

For Gregory Reyes: MORGAN, LEWIS & BOCKIUS LLP
One Market, Spear Street Tower
San Francisco, California 94105
BY: JOHN H. HEMANN, ESQUIRE

Reported By: *Katherine Powell Sullivan, CSR #5812*
Official Reporter - U.S. District Court

Katherine Powell Sullivan, CSR, RPR, CRR
Official Reporter - U.S. District Court
(415) 794-6659

P R O C E E D I N G S

DECEMBER 4, 2009

10:18 A.M.

THE CLERK: Calling case C 05-2233, In Re Brocade Communication Systems.

Appearances, Counsel.

MR. ROOT: Good morning, Your Honor.

Peter Root, from Dewey & Leboeuf, on behalf of Brocade, acting through the Special Litigation Committee.

MR. HEMANN: Good morning.

John Hemann for Mr. Reyes.

THE COURT: Where were you sitting?

MR. HEMANN: In the back row, sort of closer to the door today. Closer to the door.

I was sad the other day. I felt left out.

THE COURT: I found you out.

MR. HEMANN: You did. You spotted me back there.

THE COURT: You sat back there with the hope --

MR. HEMANN: That I would not be found out.

THE COURT: Exactly.

MR. HEMANN: Yes, indeed.

THE COURT: Exactly.

MR. HEMANN: That's why they put you high up on the bench.

THE COURT: So I can see who is trying to hide.

1 **MR. HEMANN:** That's right.

2 **THE COURT:** Judge Weiverly used to do that.

3 **MR. HEMANN:** Yes.

4 **THE COURT:** Judge Weiverly used to come in -- this is
5 his court. Judge Weiverly would come in, and if he saw anybody
6 in the courtroom that he didn't know why they were there, he
7 would send Max Thompson, his courtroom deputy, out to find out
8 why they were there.

9 But I knew why you were there.

10 **MR. HEMANN:** Yes.

11 **THE COURT:** Right. Great. So, welcome.

12 **MR. HEMANN:** Thank you, Your Honor.

13 **MR. ROOT:** Thank you.

14 **THE COURT:** This is a settlement, right?

15 **MR. ROOT:** That's right, Your Honor.

16 **THE COURT:** And it's a settlement we are not sure you
17 have to even ask my consent or approval.

18 **MR. ROOT:** That's correct, Your Honor.

19 **MR. HEMANN:** Correct, Your Honor.

20 **THE COURT:** Okay. So I grant my consent and
21 approval, even though maybe I don't have to.

22 **MR. HEMANN:** Thank you, Your Honor.

23 **MR. ROOT:** Thank you very much.

24 **THE COURT:** Thank you.

25 So that ends that, right?

1 **MR. ROOT:** It ends that and the case, yes.

2 **MR. HEMANN:** The derivative case, the In Re Brocade
3 case is now over.

4 **THE COURT:** Yes.

5 **MR. ROOT:** We'll do a dismissal following your
6 approval of the settlement --

7 (Simultaneous colloquy.)

8 **THE COURT:** I approve the settlement, yes.

9 **MR. ROOT:** We'll file, in the next few days, a
10 stipulation of dismissal.

11 **THE COURT:** Great.

12 **MR. HEMANN:** Check one box, Your Honor.

13 **THE COURT:** One box accepted.

14 **MR. HEMANN:** Thank you.

15 **MR. ROOT:** Thank you, Your Honor.

16 **THE COURT:** No one is here to oppose it?

17 **MR. ROOT:** There was no opposition.

18 **MR. HEMANN:** Thank you, Your Honor. Nice to see you.

19 **THE COURT:** I expect to see you even closer in the
20 coming months.

21 **MR. HEMANN:** I always enjoy being here, rather than
22 the back row, Your Honor. Thank you.

23 (At 10:21 a.m. the proceedings were adjourned.)

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CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.

DATE: Saturday, December 12, 2009

s/b Katherine Powell Sullivan

Katherine Powell Sullivan, CSR #5812, RPR, CRR
U.S. Court Reporter